

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 14-59370

THEISEN MACHINE AND TOOL COMPANY,

Chapter 11

Debtor.

Judge Thomas J. Tucker

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ORDER REQUIRING DEBTOR TO AMEND DISCLOSURE STATEMENT

On April 16, 2015, Debtor filed a plan and disclosure statement, in a document entitled “Debtor’s Combined Plan of Reorganization and Disclosure Statement” (Docket # 46). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtor must correct.

First, on pages 11-12 of the Plan, Debtor describes the treatment of Group I Administrative Claims. Debtor must state which claims are being treated in Group I and estimate the amount of each such claim (*e.g.*, attorney fees for Debtor’s counsel, Stevenson & Bullock, P.L.C. in the estimated amount of \$35,000.00 and the fees for the accountants for the Debtor, Leonard J. Gayeski & Fenner, Melstrom & Dooling, PLC, in the estimated amount of [\$_____]).

Second, with regard to each secured creditor, treated on pages 12-16 of the Plan, Debtor must state the amount of the claim without regard to the value of the collateral; the property securing the claim (if real estate, the full address, including city and state); the fair market value of the property securing the claim; whether any portion of the claim is unsecured; and if so, whether the secured creditor will have an unsecured deficiency claim, to be included and treated in the class of general unsecured claims; and if so, the amount of such unsecured claim. If more

than one secured creditor has a lien on property, Debtor must state the priority of each secured creditor.

Third, in Paragraph 3.6 of the Plan on pages 16-17, Debtor must estimate the total amount of general unsecured claims being treated in Class VI, including the amounts of any deficiency claims.

Fourth, in Paragraph 3.7 of the Plan on page 17, which describes the treatment of Class VII Interest Holders, Debtor must state: “Ralph Theisen, Jr. owns 68% of the Debtor’s issued and outstanding stock, and Ralph Theisen, III holds 32% of the Debtor’s issued and outstanding stock.” This information is in Paragraph II.B.2 of the Disclosure Statement on page 38, but it also should be included in Paragraph 3.7 of the Plan.

Fifth, in Paragraph 4.1 of the Plan on page 17, Debtor must change “Section 3.6(A)” to “Section 3.7(A)” in the two places it appears in the paragraph.

Sixth, Debtor must modify Paragraph 4.2 of the Plan on page 17, so that it states: “There are no Classes that are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code, except Class V, which consists of the claim of James Ureel, Sr.”

Seventh, Debtor must delete Paragraph 4.4 of the Plan on page 18. The language in such paragraph is contrary to 11 U.S.C. § 1126(c), and is contrary to the following language required to be in the Plan: “*If no creditor or interest holder in an impaired class votes, then that class has not accepted the plan.*”

Eighth, in Paragraph A of the Disclosure Statement on page 37, Debtor must state that Debtor is a corporation, and Debtor must state under which state’s laws Debtor is organized.

Ninth, in Paragraph II.B of the Disclosure Statement on page 37, Debtor must state the background of Ralph Theisen, III (*i.e.*, his education and work history).

Tenth, in Paragraph II.B.1 of the Disclosure Statement on page 38, Debtor must state whether Ralph Theisen, III receives any fringe benefits, and if so, what those benefits are.

Eleventh, in Paragraph II.C of the Disclosure Statement on page 38, Debtor must describe the Debtor's business, its industry group, and the causes for the Chapter 11 filing.

Twelfth, in Paragraph III.B of the Disclosure Statement on page 40, Debtor must state whether any post-petition adequate protection orders have been entered.

Thirteenth, Debtor must include the estimated amount that will be owed to the accountants for the Debtor, Leonard J. Gayeski & Fenner, Melstrom & Dooling, PLC, in the Liquidation Analysis (Ex. A).

Fourteenth, in Paragraph IV.E of the Disclosure Statement on page 43, Debtor must include and estimate the amount of the claim of the accountants for the Debtor, Leonard J. Gayeski & Fenner, Melstrom & Dooling, PLC.

Fifteenth, in Paragraph IV.F of the Disclosure Statement on page 43, Debtor must state whether the amount of the general unsecured claims includes any deficiency claims of secured creditors.

Sixteenth, in Section V of the Disclosure Statement, beginning on page 44, Debtor must state what compensation Debtor will pay to Ralph Theisen, III after confirmation, including fringe benefits.

Seventeenth, Debtor must delete the last sentence in Paragraph VI.B of the Disclosure Statement on page 47, and replace it with the following language: "*If no creditor or interest*

holder in an impaired class votes, then that class has not accepted the plan.”

Eighteenth, Debtor must modify Paragraph VI.E of the Disclosure Statement on page 47, so that it states in its entirety:

E. Effect of confirmation

If the plan is confirmed by the Court:

- 1. Its terms are binding on the debtor, all creditors, shareholders and other parties in interest, regardless of whether they have accepted the plan.*
- 2. Except as provided in the plan and in 11 U.S.C. § 1141(d):*
 - (a) In the case of a corporation that is reorganizing and continuing business, as in this case:*
 - (1) All claims and interests will be discharged.*
 - (2) Creditors and shareholders will be prohibited from asserting their claims against or interests in the debtor or its assets.*

Accordingly,

IT IS ORDERED that no later than May 5, 2015, Debtor must file an amended combined plan and disclosure statement that is consistent with this Order.

IT IS FURTHER ORDERED that no later than May 5, 2015, Debtor also must file a redlined version of the amended combined plan and disclosure statement, showing the changes Debtor has made to “Debtor’s Combined Plan of Reorganization and Disclosure Statement” filed April 16, 2015.

Signed on April 30, 2015

/s/ Thomas J. Tucker

**Thomas J. Tucker
United States Bankruptcy Judge**